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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: 8-189717

DATE: November 30, 1977

MATTER OF: William Pettijohn - Holiday Premium Pay

DIGEST: Employee receiving annual premium pay under 5 U.S.C. § 5545(c)(1) at a rate determined in accordance with 5 C.F.R. § 550.144(a) who performed work on seven holidays falling within his regularly scheduled tour of duty is not entitled to holiday premium pay for such work. 56 Comp. Gen. 551 (1977).

By letter dated January 9, 1976, Todd W. Summers, an accounting and finance officer for the Defense Supply Agency, requests an advance decision concerning the holiday pay entitlement of Mr. William Pettijohn. Mr. Pettijohn has submitted a claim for holiday premium pay for work performed on seven holidays within the period from February to November of 1975.

The claimant is Fire Chief at the Defense Depot, Tracy, California, and is paid 15 percent annual premium pay under the authority of 5 U.S.C. § 5545(c)(1) based upon his schedule of work requiring him to perform two 24-hour shifts per pay period. For work performed on the seven holidays falling within his regularly scheduled tour of duty, Mr. Pettijohn has received no compensation in addition to his annual premium pay of 15 percent. He now claims holiday premium pay for such holiday work based on the rationale of 54 Comp. Gen. 662 (1975). Since that decision addresses the question of charging annual leave for holidays to employees receiving premium compensation under 5 U.S.C. § 5545(c)(1) and does not specifically deal with the question of payment of holiday premium pay for work on holidays falling within the regularly scheduled tours of duty of such employees, the certifying officer questions the propriety of paying Mr. Pettijohn the \$224.86 amount claimed.

The decision on which Mr. Pettijohn relies, 54 Comp. Gen. 662, supra, was overruled by 56 Comp. Gen. 551 (1977). The latter decision recognizes that where the rate of premium pay is determined in accordance with 5 C.F.R. § 550.144(a) and without approval of a special rate by the Civil Service Commission based on a tour of duty excluding holiday work under 5 C.F.R. § 550.144(b), the rate

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of premium pay is premised, in part, on the assumption that the employees will perform work on holidays falling within their regularly scheduled tours of duty. While holding that absence on a holiday within the regularly scheduled tour of duty of such employees should generally be charged to leave, that decision recognizes that employees receiving premium pay may nevertheless be excused from duty on holidays without a charge to leave where it has been administratively determined that their services are unnecessary. However, an employee whose services are administratively required and who absents himself on a holiday within his regularly scheduled tour of duty for personal reasons is to be charged annual or sick leave as appropriate.

Consistent with our holding in 56 Comp. Gen. 551, supra, an employee receiving annual premium pay under 5 U.S.C. § 5545(c)(1) at a rate determined in accordance with 5 C.F.R. § 550.144(a) who works on a holiday falling within his regularly scheduled tour of duty is not entitled to holiday premium pay for such work inasmuch as his rate of annual premium pay includes consideration of the extent to which the duties of his position are made more onerous by holiday work requirements.

Since the record does not indicate that Mr. Pettifohn received a rate of premium pay determined other than in accordance with 5 C.F.R. § 550.144(a), his claim for holiday premium pay for holidays worked during the period from February to November of 1975 is for disallowance. The additional questions raised by the finance and accounting officer are addressed in 56 Comp. Gen. 551, supra, or their reply is rendered unnecessary by this decision.


Deputy Comptroller General
of the United States

NOV 30 1977

Indorsement:

B-189717-C.H.

Director, Claims Division

Returned. Since the accounting and finance officer forwarded the claim of William Pettiford with a request for decision, we have today rendered a decision, copy attached. Accordingly, your file should be closed.

R.F.KELLER

Deputy, Comptroller General
of the United States

Attachments